

## Message Text

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ACTION EA-14

INFO OCT-01 ADP-00 SNM-02 L-03 PM-09 BNDD-05 JUSE-00

CIAE-00 INR-10 NSAE-00 RSC-01 NSC-10 SS-15 RSR-01

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P 280445 Z APR 73

FM AMEMBASSY MANILA

TO CHNAVPER WASHDC PRIORITY

INFO SECSTATE WASHDC 4806

SECDEF

COMNAVBASE SUBIC

NAVY JAG WASHDC

CSAF/JACI

CNO WASHDC

CINCPAC/SJA

CINCPACFLT MAKALPA HI

COMSERVPAC HI

CINCPACAF/SJA

CINCPACREPPHIL SJA

13 TH AF SJA CLARK AIR BASE

405 CSF SJA

C O N F I D E N T I A L MANILA 4890

E. O. 11652: GDS

TAGS: MARR, RP

SUBJECT: FCJ: ACCEPTANCE ON PROBATION OF SERVICEMEN: CONVICTED  
BY PHILIPPINE COURTS ON DRUG LAW VIOLATIONS

REF: COMNAVBASE SUBIC 181002 A APR 73

1. EMBASSY CONCURS IN THOUGHTFUL ANALYSIS OF PROBATION  
PROBLEM SET FORTH IN REFTEL. IT APPARENT JUDGE GARCIA  
BELIEVES HE HAS NO ALTERNATIVE OTHER THAN TO ATTEMPT  
TO WORK OUT WITH SUBIC GUARDIANSHIP ARRANGEMENT WHICH WILL  
ENABLE HIM TO ENFORCE SPIRIT OF LAW; HOWEVER, AS SUBIC NOTES  
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IT WOULD APPEAR, SUBJECT TO TENNANT'S CONDUCT, THERE

POSSIBILITY PROBATIONARY PERIOD CAN BE REDUCED.

2. OBVIOUSLY, DANGEROUS DRUG ACT OF 1972 DID NOT FORESEE PROBLEM OF MINOR U. S. SERVICEMEN, BUT GUARDIANSHIP PROVISION DURING PROBATION PROVIDES HUMANE OPPORTUNITY FOR SUCH MINORS TO AVOID OTHERWISE MANDATORY SIX- YEAR CONFINEMENT. EMBASSY AWARE THAT GUARDIANSHIP CONCEPT REPRESENTS AN UNWELCOME INTERFERENCE IN NORMAL MILITARY OPERATIONS, BUT SUGGESTS AGREEMENT TO WORKING OUT OF SUCH AN ARRANGEMENT IS LIKELY TO CAUSE LESS TROUBLE AND EXPENSE THAN NON- AGREEMENT. ( FYI IT OUR UNDERSTANDING CLARK AIR BASE HAD HAD SOME EXPERIENCE WITH SERVICEMEN GUARDIANSHIP ARRANGEMENTS. END FYI). IN ANY EVENT FULL TRIAL WITH POSSIBLE APPEALS WILL FAR EXCEED TIME INVOLVED IN 10- MONTH PROBATIONARY PERIOD. FURTHER, EMBASSY CONCURS IN SUBIC' S JUDGMENT ( PARA 9 REFTEL) THAT NONAVAILMENT OF PROBATIONARY ASPECTS DANGEROUS DRUG ACT COULD LEAD TO HIGHLY UNFAVORABLE CONGRESSIONAL AND PRESS CRITICISM.

3. EMBASSY PLANS TO CONTINUE DISCUSSION WITH APPROPRIATE GOP OFFICIALS ON PROBLEMS DANGEROUS DRUG ACT OF 1972 POSES FOR U. S. ARMED FORCES PERSONNEL, PARTICULARLY ITS REHABILITATION AND PROBATIONARY PROVISIONS. AS ADDRESSEES ARE AWARE, GOP HAS BEEN RESPONSIVE IN SOFT DRUG AREA AND OLONGAPO COURTS HAVE GENERALLY FOLLOWED POLICY OF DISMISSING CASES AGAINST FIRST OFFENDERS. HOWEVER, GOP HAS ALWAYS MADE IT CLEAR IT CONSIDERED HARD DRUGS IN DIFFERENT CATEGORY AND, THEREFORE, WE DO NOT ANTICIPATE EASY OR RAPID SOLUTION TO THESE PROBLEMS, ALTHOUGH IT IS OUR EXPERIENCE THAT GOP HAS SOUGHT TO BE HELPFUL WHEN WE HAVE POINTED OUT SPECIAL PROBLEMS THAT DRUG ACT CAUSES IN IMPLEMENTATION OF MBA. NEVERTHELESS, AS SUBIC HAS POINTED OUT THIS TYPE OF TIMECONSUMING DISCUSSION WILL NOT BE EFFECTIVE IN VIEW OF THE TIME CONSTRAINTS IN THE TENNANT CASE. THEREFORE, EMBASSY RECOMMENDSTHAT COMNAVBASE SUBIC OR HIS DESIGNATED REPRESENTATIVE BE PERMITTED TO ACCEPT GUARDIANSHIP ROLE FOR PROBATIONARY PERIOD IN THIS CASE.

4. DELAY IN EMBASSY COMMENTS OCCASIONED BY FACT THAT REFTEL RECEIVED ONLY ON APRIL 27.

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**TAGS:** MARR, RP  
**To:** CHNAVPERS WASHDC  
CINCPAC/ SJA  
CINCPACFLT MAKALPA HI  
CNO WASHDC  
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